

IN THE UNITED STATES DISTRICT COURT FOR
THE SOUTHERN DISTRICT OF GEORGIA
WAYCROSS DIVISION

FILED
U.S. DISTRICT COURT
WAYCROSS, GA.
2007 JUN 15 AM 11:47

JAMES HENRY BAISDEN)

Petitioner.)

v.)

UNITED STATES OF AMERICA)

Respondent.)

CASE NO. 5:97-CR-3
5:01-CV-28

m. Baisden
U.S. DISTRICT COURT

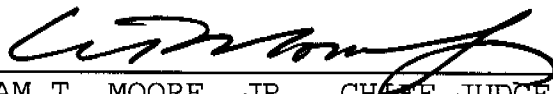
O R D E R

Before the Court are Petitioner's Motion to Vacate Judgment (Doc. 1797 & 44) and Motion to Correct Judgment. (Doc. 1817.) In these Motions, Petitioner seeks to challenge his sentence under Federal Rule of Civil Procedure 60(b) and Federal Rule of Criminal Procedure 36. The factual basis for these motions is a decision by Supreme Court of Georgia granting his petition for habeas corpus relief as to certain state convictions. Baisden v. State of Georgia, 279 Ga. 702, 620 S.E.2d 369 (2005). Based on this decision, Defendant asks the Court for a reduction of his federal sentence based on the overturning of his prior state convictions. Accordingly, the Court construes his letter as a petition for habeas corpus relief made pursuant to 28 U.S.C. § 2255. Gonzalez v. Crosby, 545 U.S. 524, 531, 125 S. Ct. 2641, 162 L. Ed. 2d 480 (2005).

Petitioner previously filed a § 2255 petition for relief from his conviction and sentence in this matter. Baisden v. United States, Case No. 5:01-CV-28 (S.D. Ga. petition filed April 11, 2001). Before filing a second or successive petition, he must receive certification from a panel of the Eleventh Circuit Court of Appeals that his petition is based on newly discovered evidence or a new rule of constitutional law. 28 U.S.C. § 2255. Petitioner already sought certification from the Court of Appeals on these grounds, and his request was denied initially and on reconsideration. (Doc. 1797 at 2, 7-9.)

Because Petitioner has not obtained certification from the Eleventh Circuit Court of Appeals, the Motions to Vacate or Correct the Judgment are **DENIED**.

SO ORDERED this 15th day of June, 2007.


WILLIAM T. MOORE, JR., CHIEF JUDGE
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA